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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,797	08/30/2000	Wolfgang Peter	00-0542	2085

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ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 66 EAST
SUITE B
TIJERAS, NM 87059

EXAMINER

IP, SIKYIN

ART UNIT	PAPER NUMBER
1742	

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/651,797
Filing Date: August 30, 2000
Appellant(s): PETER ET AL.

Robert W. Becker
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed April 11, 2005 appealing from the Office action mailed July 14, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

G9400222.3

IPSEN INDUSTRIES

04-1994

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103(a)

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 6-20 are rejected under 35 U.S.C. ' 103 as being unpatentable over G9400222.3 (PTO-1449, 1).

G9400222.3 in figure 1 disclose a cooling chamber with nozzle plate (10) and cooling plate (11). The nozzle plate (10) can be lowered onto the workpieces positioned in the cooling chamber (page 4, last paragraph). The nozzle plate (10) is placed at top of workpieces to make cooling gas flow in lengthwise direction and no

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rebounding flow, which read on laminar cooling. Cooling plate (11) are formed to a contour of workpiece loads such as a tunnel (page 4, second full paragraph of the translation). Cooling gas is regenerated by passing through gas channels (page 2, second full paragraph). When prior art compounds essentially "bracketing" the claimed compounds (here structure) in structural similarity are all known, one of ordinary skill in the art would clearly be motivated to make those claimed compounds in searching for new products in the expectation that compounds similar in structure will have similar properties. In re Gyurik, 596 F.2d 1012, 1018, 201 USPQ 552, 557 (CCPA 1979); See In re May, 574 F.2d 1082, 1094, 197 USPQ 601, 611 (CCPA 1978) and In re Hoch, 57 CCPA 1292, 1296, 428 F.2d 1341, 1344, 166 USPQ 406, 409 (1970).

(10) Response to Argument

Appellant's arguments filed April 11, 2005 have been fully considered but they are not persuasive.

Appellants argue that G9400222.3 does not disclose laminar flow cooling gas. But, examiner disagrees because Figure 1 of G9400222.3 also uses cooling plate (11). Figure 2 as taught by G9400222.3 uses lateral nozzle plates (10) has the cooling gas flow rebounding (page 6, first full paragraph). But, when the nozzle plate (10) is placed above the workpiece (4), the cooling gas would flow in lengthwise direction without rebounding (Sentence bridging pages 5 and 6 of cited reference). Thus, when the nozzle plates are placed^d above the workpieces, the cooling gas flow is without rebounding and reads on laminar flow. Moreover, the configuration of instant Figures

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1, 3, and 4 as shown are substantially same as Figure 1 of cited reference. Therefore, cooling chamber of cited reference is also capable of the claimed laminar flow.

Appellants argue that tunnel of cited reference is for enclosing a plurality of workpieces (4). Appellants' attention are directed to page 5, lines 16-18 that cooling gas in each tunnel "is aimed on the workpiece or workpieces 4"


For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



SIKYIN IP
PRIMARY EXAMINER
ART UNIT 1742

SI
June 22, 2005

Conferees
Roy V. King
Patrick J. Ryan 

ROY KING 
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

APPEAL CONFeree: _____

Examiner Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Ip whose telephone number is (571) 272-1241. The examiner can normally be reached on Monday to Friday from 5:30 A.M. to 2:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Roy V. King, can be reached on (571)-272-1244.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ROBERT W. BECKER & ASSOCIATES
707 HIGHWAY 66 EAST
SUITE B
TIJERAS, NM 87059